



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,847	04/08/2005	Eduardo Pinto Coelho	P-5801	9167

7590 05/25/2007
David W Highet
Becton Dickinson and Company
Mail Code 110
1 Becton Drive
Franklin Lakes, NJ 07417-1880

EXAMINER

DESANTO, MATTHEW F

ART UNIT	PAPER NUMBER
3763	

MAIL DATE	DELIVERY MODE
05/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/530,847	Applicant(s) COELHO ET AL.	
	Examiner Matthew F. DeSanto	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-9 and 11-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9 and 11-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species A in the reply filed on 2/27/07 is acknowledged.
2. No claims have been withdrawn, since all the claims are generic.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4-9, 11-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbs (USPN 5,085,640), and further in view of Newby et al. (USPN 6,298,541).

Gibbs discloses a single use syringe with a barrel, a needle cannula, a plunger that has an elongated body portion having a plunger including an elongate body portion having a proximal portion, a distal portion and a stopper slidably positioned in fluid-tight engagement with said inside surface of said barrel for drawing fluid into and driving fluid out of said chamber by movement of said stopper relative to said barrel, said elongate body portion extending outwardly from said open proximal end of said barrel, wherein the plunger breaks upon excessive force as shown in figures 12, and 32 (figures 1-12, & 25-32 and

respective columns in the reference), the reference also discloses other structural elements of the plunger, but fails to disclose an elongated needle shield.

Newby et al. discloses an elongate needle shield hingedly connected to said barrel, said needle shield having two side walls defining a longitudinal opening and a back wall between said side walls defining a recess having an interior surface, said needle shield capable of pivoting from an open position wherein said needle cannula is exposed, to a closed needle protecting position wherein said distal end of said needle cannula is within said longitudinal opening of said shield as well as an arm in the needle shield to prevent reuse of the needle (Figure 10-14, 18, 19).

Therefore it would have been obvious for one of ordinary skill in the art to combine the device of Gibbs with the teachings of Newby et al. because Newby et al. discloses a shield that prevents accidental pricking prior to and after using the needle device (Column 2, 43-67).

5. Claims 1, 2, 4, 5, 11-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Capes (USPN 6,217,550), and further in view of Newby et al. (USPN 6,298,541).

Capes discloses a single use syringe with a barrel, a needle cannula, a plunger that has an elongated body portion having a plunger including an elongate body portion having a proximal portion, a distal portion and a stopper

slidably positioned in fluid-tight engagement with said inside surface of said barrel for drawing fluid into and driving fluid out of said chamber by movement of said stopper relative to said barrel, said elongate body portion extending outwardly from said open proximal end of said barrel, wherein the plunger breaks upon excessive force as shown in figures 19, (figures 17-27 and respective columns in the reference), the reference also discloses other structural elements of the plunger, but fails to disclose an elongated needle shield that hinges and has an arm within the shield.

Newby et al. discloses an elongate needle shield hingedly connected to said barrel, said needle shield having two side walls defining a longitudinal opening and a back wall between said side walls defining a recess having an interior surface, said needle shield capable of pivoting from an open position wherein said needle cannula is exposed, to a closed needle protecting position wherein said distal end of said needle cannula is within said longitudinal opening of said shield as well as an arm in the needle shield to prevent reuse of the needle (Figure 10-14, 18, 19).

Therefore it would have been obvious for one of ordinary skill in the art to combine the device of Capes with the teachings of Newby et al. because Newby et al. discloses a shield that prevents accidental pricking prior to and after using the needle device (Column 2, 43-67).

6. Claims 1, 2, 4, 5, 11-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosoff et al. (US 20020091361 A1), and further in view of Newby et al. (USPN 6,298,541).

Rosoff et al. discloses a single use syringe with a barrel, a needle cannula, a plunger that has an elongated body portion having a plunger including an elongate body portion having a proximal portion, a distal portion and a stopper slidably positioned in fluid-tight engagement with said inside surface of said barrel for drawing fluid into and driving fluid out of said chamber by movement of said stopper relative to said barrel, said elongate body portion extending outwardly from said open proximal end of said barrel, wherein the plunger breaks upon contracts as shown in figures 1-3 (figures 1-3, 5-10 and respective columns in the reference), the reference also discloses other structural elements of the plunger, but fails to disclose an elongated needle shield.

Newby et al. discloses an elongate needle shield hingedly connected to said barrel, said needle shield having two side walls defining a longitudinal opening and a back wall between said side walls defining a recess having an interior surface, said needle shield capable of pivoting from an open position wherein said needle cannula is exposed, to a closed needle protecting position wherein said distal end of said needle cannula is within said longitudinal opening of said shield as well as an arm in the needle shield to prevent reuse of the needle (Figure 10-14, 18, 19).

Therefore it would have been obvious for one of ordinary skill in the art to combine the device of Rosoff et al. with the teachings of Newby et al. because Newby et al. discloses a shield that prevents accidental pricking prior to and after using the needle device (Column 2, 43-67).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F. DeSanto whose telephone number is 571-272-4957. The examiner can normally be reached on Mon-Fri 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on 571. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Matthew DeSanto
Art Unit 3763
May 24, 2007

